

**Tax Type:** Property Tax  
**Issue:** Religious Ownership/Use

# ST. PETER'S LUTHERAN CHURCH OF PEKIN

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**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

St. Peter's Lutheran Church ("applicant") filed an application for a property tax exemption for the year 1999 for approximately 6.6 acres of land ("property") located in Tazewell County. The applicant alleges that the property qualifies for an exemption on the basis that it is used exclusively for religious purposes. The Department of Revenue ("Department") denied the exemption on the basis that the property is not being used for an exempt purpose.<sup>1</sup> The applicant timely protested the denial and an evidentiary hearing was held. Ed Bradford and Ron Swords, who are the past and current Chairmen of the Board of Trustees of the applicant, appeared on behalf of the applicant. After reviewing the record, it is recommended that the property be exempt from taxation.

## FINDINGS OF FACT:

1. The applicant is a not-for-profit corporation that was incorporated in Illinois on May 26, 1970. The purpose of the applicant as stated in its Articles of Incorporation is the following:

“To engage in the religious and education pursuits of a Christian Congregation affiliated with The Lutheran Church-Missouri Synod; to conduct Christian schools and to that end to do all things necessary to the accreditation and management thereof; to maintain, operate, and to manage Parish Halls and Gymnasiums, a school cafeteria or restaurant and such other properties and facilities as are necessary for a full religious, education and social program within the framework of the church; and to have and enjoy such other powers including the ownership of real and personal property, as are consistent with the foregoing purposes.” (Dept. Ex. #1)

2. The applicant acquired the property by a Quit Claim Deed dated December 16, 1998. (Dept. Ex. #1)

3. The property is approximately 6.6 acres of land that is located approximately 10 miles from the applicant and is known as the Troy Bradford Memorial Park. (Dept. Ex. #1, Tr. p. 24).

4. The west side of the property is heavily forested. A creek borders the south side of the property. The east side has a wooden fence, which is also partially on the north side. The remainder of the north side is a row pine trees. (Tr. pp. 18-20)

5. On the east side of the property there is a gate that is kept locked. The only access to the property is through the gate. (Tr. pp. 20-21)

6. In order to gain access to the property, the party must send a letter to the Chairman of the Board of Trustees. Once he approves it, the secretary notifies the party and allows access to the property. This process typically takes one day. (Tr. p. 21)

7. The property has a small, paved entrance road, but no pavement for parking. The congregation uses a portion of the property next to the entrance road for parking whenever church-related activities are held on the property. (Dept. Ex. #1, Tr. p. 18)

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<sup>1</sup> The Department's denial states that the applicant's name is St. Peter's Lutheran Church of Pekin. At the hearing, the applicant's representative testified that St. Peter's Lutheran Church is located in East Peoria, but the property at issue is located near Pekin. (Tr. p. 23)

8. The buildings on the property include a pavilion with an enclosed kitchen and bathrooms, and a shed that is used to store things such as chairs and coffee pots. The pavilion is approximately 200 square feet. The shed is approximately 8 by 10 feet. The property also has a one-car garage that is used for storage. (Dept. Ex. #1; Tr. p. 17)

9. In the spring of 1999, the applicant's Men's Club spent a several weekends cleaning the property so the applicant's congregation could use it. The Men's Club cleaned the floors and the deck of the pavilion and removed bird's nests. They also mowed the lawn. (Tr. pp. 8-9)

10. On March 28, 1999, the applicant's congregation had an Easter egg hunt and Bible study on the property. (Tr. pp. 9-10)

11. On May 19 and 20 of 1999, the applicant's congregation had a children's camp out on the property. The camp out included Bible studies. Approximately two or three camp outs took place during the summer of 1999. (Tr. pp. 11-12)

12. Between March 28 and May 19, 1999, there may have been other activity on the property such as a wedding, a congregation party, or a birthday party, but the Chairman of the Board of Trustees could not remember what activities took place. (Tr. pp. 11-12)

13. During 1999, approximately four or five youth group outdoor activities took place, including a cookout with Bible studies and Christian educational activity. During the winter months, the youth group activities included sledding on the property. (Tr. pp. 12-13)

14. Several times during 1999, the congregation had an all-member church worship on the property. This included a complete church worship with a sermon and then a fellowship with a potluck for the remainder of the day. (Tr. pp. 14-15)

15. Four or five times during 1999 the congregation had an all-member sports day on the property. This included volleyball games, baseball games, horse shoes, and probably a small Bible study. (Tr. p. 15)

16. On October 31, 1999, the congregation had a Reformation party on the property. The Reformation party celebrates the reformation of the church by Martin Luther. (Tr. pp. 22-23)

17. The property is used to bring the word of Christ to the youth and adults of the congregation. The picnics and other activities on the property are intended to encourage the members to attend and participate. (Tr. p. 22)

#### CONCLUSIONS OF LAW:

The applicant has requested an exemption from the property tax pursuant to section 15-40 of the Property Tax Code, which provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, \* \* \*. 35 ILCS 200/15-40.

In determining whether property is exempt under this provision, the primary use of the property, rather than its incidental use, must be considered. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59, 65-66 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11, 16 (1924). In order to qualify for the exemption, the property must actually be used for the exempting purpose. Illinois Institute of Technology at 64. Intention to use is not the same as actual use. Id.

It is well-established that property tax exemption provisions are strictly construed in favor of taxation. Chicago Patrolmen's Association v. Department of Revenue, 171 Ill.2d 263, 271 (1996). The party claiming the exemption has the burden of clearly proving that it is entitled

to the exemption, and all doubts are resolved in favor of taxation. Id.; City of Chicago v. Department of Revenue, 147 Ill.2d 484, 491 (1992).

The applicant has presented sufficient evidence to support its entitlement to a property tax exemption for 1999. It is not disputed that the property is owned by a religious organization. The only question is whether the property is actually used for religious purposes. Several times during 1999, an all-member church worship took place on the property. This included a complete worship ceremony with a sermon. The congregation also had a Reformation Party on the property to celebrate the reformation of the church by Martin Luther. The Easter egg hunt and children's camp out included Bible studies. Other events on the property included Christian educational activities. Because the applicant actually used the property for religious purposes, the property is entitled to an exemption.

Recommendation:

For the foregoing reasons, it is recommended that the property be exempt from taxation for the year 1999.

Linda Olivero  
Administrative Law Judge

Enter: May 29, 2002